IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 5983 of 2007()

CRMP.2975/2007 of DISTRICT COURT, PALAKKAD
C.R.NO.15/07 OF ALATHUR EXCISE RANGE.

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: PETITIONER/ACCUSED

PARAMESWARAN, AGED 40 YEARS,
S/O.APPUNNY, KORACHIRA, NJAVALIN CHOLA,
KIZHAKKENCHERY, ALATHUR TALUK, PALAKKAD DIST.

BY ADV. SRI.P.BHASKARAN
SRI.N.O.PHILIP

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE EXCISE INSPECTOR,
ALATHUR RANGE, PALAKKAD DISTRICT.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5983 OF 2007

Dated this the 3rd day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. It is alleged that the petitioner on 9/8/07 was found to be in possession of 3.5 litres of arrack. He allegedly abandoned the article and took to his heels. He therefore could not be arrested. The seizure mahazar as well as the occurrence report clearly show the name of the petitioner as the person who had allegedly run away. The details of the accused was ascertained by the detecting officer from the local witnesses, it is alleged. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner may, in

these circumstances, be granted anticipatory bail, it is prayed.

3. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor opposes the application. All the available indications clearly point to the culpable involvement of the petitioner. There is absolutely no reason to invoke the powers under Sec.482 of the Cr.P.C. submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. At the moment and with the available inputs, I find absolutely no reason to assume that the allegations raised against the petitioner are false, frivolous or vexatious. It is for the petitioner to appear before the Investigating Officer or the learned Magistrate having jurisdiction and seek regular bail in the ordinary course. I need only say that I find no features in this case which would justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail,

after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge